

**REMARKS**

Claims 1-16 remain in this application. Applicant respectfully requests reexamination.

Claims 3-13 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. These claims have been amended in a manner which hopefully obviates the rejection set forth in the Office Action. Applicant respectfully requests that this rejection be withdrawn.

Claims 1, 2, and 14-16 were rejected under 35 U.S.C. § 102(b) as anticipated by *Hendricks et al.* (US 5,734,853). Applicant respectfully traverses.

*Hendricks et al.* is directed to a viewer interface for a television program delivery system. The *Hendricks* interface utilizes hardware and software in conjunction with a television at the viewer's home to create a user-friendly menu-based approach to accessing television programs. *Hendricks* claims that his viewer interface is particularly useful in a program delivery system that has hundreds of programs and a data signal that carries program information.

*Hendricks* specifically sets out at Column 3, Line 21, to Column 4, Line 32, that his device is a set top box which creates a menu template from the programming control signals received. This menu information is freely available to the viewer without restriction. The programs are not. The control signals described by *Hendricks* are data for creating the menu template and certain information for the subscriber about incoming events, billing and account status, or new subscriptions, for example. These control signals and data are not restricted from viewing for any reason.

From Column 29, Line 19, to Column 32, Line 18, *Hendricks* describes his process for allowing a user to buy and view a program using a buy screen that is generated as described in

the above-cited portion of his patent. The viewer is not allowed to view a program without a purchase. Thus, while the programs are always subject to restriction, until a purchase, the control information, such as the menu data, upcoming events, billing and account status, new subscription, for example, are never restricted for any reason.

In a common pay-TV system, a user is allowed to preview programs at no charge, within a predetermined preview period. For a movie program, a three-minute free preview period is usually provided.

Pursuant to the current invention, the sending station repeatedly transmits a broadcast wave containing interactive data. The digital broadcast receiving unit receives and reproduces the interactive data, thereby establishing pseudo-interactive communication. This interactive data is transmitted to the receiving unit in less than three minutes. Thus, during a preview period, a user using a pay-TV receiver can obtain all the interactive data at no charge.

The present invention solves this problem. As specifically set forth in claims 1, and 14-16, the receiving device of the present invention utilizes a restricting unit for restricting use of interactive data being received during the preview state. The restricting unit, as set forth in the claims, is capable of restricting use of the received interactive data when either the preview state or the prohibited state is present. Thus, the received interactive data may not be viewable by a non-contracting user.

The present invention has a judging unit which uses information received during the broadcast wave to establish a subscription contract state, a preview state, and a prohibited state. The receiving device uses a restricting unit that can restrict use of interactive data that is being continually broadcast, regardless of a preview state or prohibited state being established.

*Hendricks* fails to disclose or teach the use of a restricting unit, or any structure that functions to restrict a user from viewing received continuously broadcast interactive data during the free preview period.

Applicant respectfully requests that this rejection be withdrawn.

In light of the above amendment and remarks, Applicant believes that all the claims are in condition for allowance and respectfully requests that this case be passed to issue.

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail No. **EV 456684956 US** addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on June 2, 2005.

By: Marc Fregoso

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Signature

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Respectfully submitted,

**SNELL & WILMER L.L.P.**

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